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July 25, 2023

Michael E. Gans, Clerk of Court  
U.S. Court of Appeals for the Eighth Circuit  
Thomas F. Eagleton Courthouse  
111 South 10<sup>th</sup> Street  
St. Louis, MO 63102

Re: *Morehouse Enterprises, LLC, et al. v. Bureau of ATF, et al.*, Case No. 22-2812

Dear Mr. Gans:

On July 24, 2023, the United States Court of Appeals for the Fifth Circuit denied the Bureau of Alcohol, Tobacco, Firearms and Explosives' ("ATF") request for a stay pending appeal from the district court's summary judgment and vacatur of the Final Rule. *See VanDerStok v. Garland*, No. 23-10718, Doc. No. 45-1 (unpublished) (attached).

Specifically, with respect to the Final Rule's new definitions of "frame or receiver" and "firearm," the Fifth Circuit stated that "ATF has not demonstrated a strong likelihood of success on the merits, nor irreparable harm in the absence of a stay..." *Id.* Further, the panel noted that "[t]his effectively maintains, pending appeal, the *status quo* that existed for 54 years from 1968 to 2022."

However, the court then noted that the "ATF is likely correct ... that the vacatur [of the entire Rule] was overbroad," because the district court "analyzed the legality of only two of the numerous provisions of the Rule, which contains an explicit severability clause." The panel then stayed the district court's vacatur with respect to the "non-challenged parts of the Rule," but stayed its Order for ten days "[t]o allow time for additional proceedings as appropriate..." *Id.*

Respectfully submitted,

/s/ Stephen D. Stamboulieh  
Stephen D. Stamboulieh

cc: All counsel of record (CM/ECF)